

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,
Plaintiff

v.

ROBERT W. MEYERS, et al.,
Defendants

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No. 1:CV-00-0895

(Magistrate Judge Smyser) ✓

FILED
HARRISBURG

SEP 18 2001

MARY E. D'ANDREA, CLERK
Per. MD
DEPUTY CLERK

**DEFENDANTS' MOTION FOR
ENLARGEMENT OF TIME TO FILE REPLY BRIEF**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, defendants, by their attorneys, move for an enlargement of time in which to file a reply brief on the pending motion for summary judgment for the reason that plaintiff's exhibits in support of his opposition to summary judgment, while dated September 4, 2001, were not postmarked until September 10, 2001, and were received at the office of undersigned counsel on September 13, 2001. In support hereof, defendants state as follows:

1. This is a civil action for injunctive relief and damages brought pursuant to 42 U.S.C. §1983 by an inmate of a state correctional institution who is proceeding pro se.

2. On June 27, 2001, defendants filed a motion for summary judgment. The supporting documents and brief were filed on July 10, 2001.

3. By order dated August 22, 2001, the Court granted an enlargement of time for plaintiff to file his exhibits in opposition to defendants' motion for summary judgment until September 4, 2001.

4. Plaintiff failed to comply with the Court's order, and on September 7, 2001, defendants filed a motion for involuntary dismissal.

5. On September 13, 2001, undersigned counsel received a copy of plaintiff's exhibits in opposition to defendants' motion for summary judgment.

6. Although the exhibits are accompanied by a certificate of service dated September 4, 2001, they were not received by undersigned counsel until September 13, 2001. (See attached).

7. According to the Court's docket on PACER, the Clerk also did not receive plaintiff's exhibits until September 13, 2001.

8. If the Court does not grant defendants' motion for involuntary dismissal, defendants would like the opportunity to file a reply memorandum to plaintiff's opposition.

9. If the Court were to use plaintiff's certificate of service as the correct service date, a reply memorandum from defendants would already be untimely.

10. Inasmuch as plaintiff did not actually serve his exhibits until


September 10, 2001, and there is pending a motion for involuntary dismissal, defendants request an additional ten (10) days from September 13, 2001, in which to file a reply brief, if necessary.

Wherefore, defendants' motion for enlargement of time should be granted.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


GREGORY R. NEUHAUSER
Senior Deputy Attorney General

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

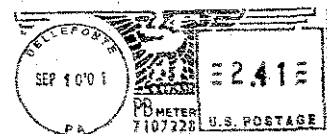
OFFICE OF ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-787-8106

DATE: September 18, 2001

MONTAGUE #BZ-2761

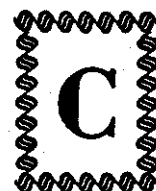
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GREGORY R NEUHAUSER
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COMMONWEALTH OF PENNSYLVANIA
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HARRISBURG, PA 17120



MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,

V. PLAINTIFF

BERT W. MEYERS, ET AL.

DEFENDANTS,

NO. 1: CV-00-0895

(MAGISTRATE Judge Smyser)

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Office of Attorney General
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Litigation Section

EXHIBITS IN SUPPORT OF PLAINTIFF

POSITION TO THE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Terrance Montague

TERRANCE MONTAGUE
SCI-ROCKVIEW
BOX A BELLEFONTE, PA 16823-

DATE: SEPTEMBER 3rd 2001

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,
Plaintiff

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ROBERT W. MEYERS, et al.,
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No. 1:CV-00-0895

:(Magistrate Judge Smyser)

CERTIFICATE OF SERVICE

I, **GREGORY R. NEUHAUSER**, Senior Deputy Attorney General
for the Commonwealth of Pennsylvania, Office of Attorney General, hereby
certify that on **September 18, 2001**, I caused to be served a true and correct copy
of the foregoing document **Defendants' Motion for Enlargement of Time to File**
a Reply Brief by depositing it in the United States mail, first-class postage
prepaid to the following:

Terrance Montague, BZ-2761
SCI-Rockview
Box A
Bellefonte, PA 16823-0820


GREGORY R. NEUHAUSER
Senior Deputy Attorney General